

## **Remarks**

As stated above, Applicants appreciate the Examiner's thorough examination of the subject application and request reexamination and reconsideration of the subject application in view of the preceding amendments and the following remarks.

Claims 1-2 and 28-47 are pending in the subject application, of which claims 1 and 37 are independent claims. With this response, Applicants have amended claims 1 and 2, cancelled claims 3-27, and added new claims 28-47. Applicants have also amended FIG. 2. A Replacement Sheet, including amended FIG. 2, attached to this response as Appendix A, corrects a typographical error in original FIG. 2. Specifically, box 102 of original figure 2 was labeled "Dual Selection Process." FIG. 2 has been amended such that box 102 correctly reads "Deal selection process" (emphasis added), as it is referred to in the detailed description. *See Subject Application*, ¶ [0055]. No new matter is believed entered by the foregoing amendment to FIG. 2.

### **A. 35 U.S.C. §101 Rejection**

The Examiner rejected claims 1, 2, 5, 7, 8, 9, 12, 24, 25, and 26 under 35 U.S.C. § 101 because the "claimed invention is directed to non-statutory subject matter." Office action, page 2. Applicant has cancelled claims 5, 7, 8, 9, 12, 24, 25, and 26 in the present action and with respect to claims 1 and 2, Applicant respectfully traverses.

A method claim satisfies the statutory requirements of §101 if "it is tied to a particular machine or apparatus." *In Re Bilski* 2008 WL 4757110 (Fed. Cir. 2008)(en banc). A general purpose computer, when programmed to perform a particular function, is patentable subject matter under § 101. *In re Allapat*, 31 U.S.P.Q.2d 1545, 1558 (Fed. Cir. 1994). "[S]uch programming creates a new machine, because a general purpose computer in effect becomes a

special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software." *Id.*

As amended, claim 1 (and claims 2, and 28-36 depending thereupon) is tied to a particular machine, as it requires the use of a single logical physically distributed information system capable of producing a user interface (amended claims, claim 1). This single logical physically distributed information system and user interface tie the process to a particular machine as described in *Bilski*. Such an amendment has support in specification paragraphs 5, 6, and 13. Therefore, as amended, Applicant respectfully submits that claim 1, and subsequent claims 2 and 28-36 are allowable subject matter under §101 and respectfully request the removal of the §101 rejection.

**B. 35 U.S.C. § 102 Rejection**

Claims 3, 4, 8, 20-22, and 24-27 were rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 7,006,978 ("Lineberry"). However, by this response, these claims have now been cancelled rendering the rejection moot.

Claim 9 was rejected under 35 U.S.C. §102(e) as being anticipated by Marpe et al. (US 2002/0184191). Claim 9 has been cancelled herein, thereby rendering this rejection moot.

**C. 35 U.S.C. § 103 Rejections**

The examiner previously rejected claim 1 under 35 U.S.C. §103(a), as unpatentable over Lineberry in view of U.S. Patent Application Publication 2002/0035482 ("Coble"). As amended, Applicants contend that claim 1 is in condition for allowance. The full text of the claim is reproduced below for convenience.

1. (currently amended) A method for facilitating of monitoring human resources management information, comprising:
  - providing a single logical physically distributed information system across one or more information systems of at least two enterprises;

providing an individually configurable user interface remotely connected to said single logical physically distributed information system;  
populating said individually configurable user interface with monitoring information applied to planning, managing, and assessing human resources in at least one of an integration, merger, acquisition and spin-off of said at least two enterprises;  
wherein said monitoring information comprises:  
planning organizational movement of employees,  
tracking employees through various rankings, job titles, and locations within at least one enterprise of said at least two enterprises,  
providing a list of jobs within at least one enterprise of said at least two enterprises,  
tracking performance levels and promotion requests of said employees,  
and  
redeploying resources of at least one enterprise of said at least two enterprises.

Applicant has amended claim 1 to include additional elements. Notably, amended claim 1 now includes: populating said individually configurable interface with monitoring information applied to planning, managing, acquisition, and assessing human resources in at least one of an integration, merger, acquisition, and spin off of at least two enterprises.

Applicants assert that the scope and content of the cited art does not include or contemplate the elements of claim 1 as amended. Particularly, the scope of the cited art does not encompass the combination of various types of monitoring information (e.g., "planning organizational movement of employees, tracking employees, providing a list of jobs, tracking performance levels, and redeploying resources"). *Lineberry* discloses a program with an ability to create checklists by area (e.g. commercial, operational, human resources, legal and financial, see *Lineberry*, col. 5, lines 20-21), but does not appear to disclose the types of monitoring information as claimed. *Coble* discloses a method for exchanging information between two businesses. However, *Coble* is not understood to teach or suggest (alone or in combination with *Lineberry*) the above-mentioned newly added features of independent claim 1.

Further, the differences between the claimed invention and the cited art appear to be sufficient to render the claimed invention nonobvious. As submitted above, the elements comprising the monitoring information including "making a deal selection choice, planning an integration, executing a transaction, and making a post-integration assessment" appear not to be disclosed in the above cited references and render a significant difference between the cited art and the invention as claimed. Differences between a claimed invention and cited art are sufficient to negate a §103 rejection when a person of ordinary skill in the art, sitting with the cited references on his desk, would not find the claimed invention obvious because the elements discussed are absent from the references. *See In re Winslow*, 365 F.2d 1017, 1021 (CCPA 1996). Applicants, therefore, submit that the newly presented claim 1 is in condition for allowance and respectfully request the withdrawal of the §103 rejection as applied to claim 1 in light of the new amendments.

Claim 2 was rejected under 35 U.S.C. §103(a) as being obvious over Lineberry in view of Coble and further in view of Adler (US 2002/0169658). Adler has been asserted to disclose "modeling and analysis tools to help companies make informed strategic decisions in complex, rapidly changing market environments for business transformation such as mergers and acquisitions." Page 13 of the Office Action. Applicants respectfully submit that these further asserted teachings of Adler fail to remedy the deficiencies of Lineberry and Coble, discussed above, with reference to independent claim 1, upon which claim 2 depends. As such, Applicants respectfully submit that amended independent claim 1 (and claim 2 depending thereupon) is non-obvious further in view of Adler. Withdrawal of this rejection is respectfully requested.

Claims 5-7, 10-19, and 23 were rejected under 35 U.S.C. §103(a) as being obvious over various combinations of Lineberry, Marpe (US 2002/0184191), and Mittal (US 2003/0125970).

As discussed above, these claims have been cancelled herein rendering the rejection thereof moot.

**D. Newly Presented Claims**

Applicant has additionally amended the claim set to include new claims 28-47. These new claims are additionally believed to be in condition for allowance. These newly presented claims include 1 new independent claim 37.

Claims 36-48 claim an article comprising a machine readable storage medium, storing instructions operable to cause a machine to perform operations that are similar to what is claimed in claims 1-4, 8-9, and 28-35. Applicant respectfully requests full consideration of these claims as Applicant believes these claims are in condition for allowance.

**E. Double Patenting Rejection**

The examiner further supplied a non statutory double patenting rejection between the present application and application 10/750,406. Applicant respectfully traverses the double patenting rejection with respect to the amended claims. Applicant contends that the claims, as amended, now provide sufficient distinction from the additionally cited application to obviate a double patenting rejection. Therefore, Applicant respectfully requests removal of the double patenting rejection.

**F. Conclusion**

In light of the cancellation of claims 3-27, Applicant submits that the newly amended claim set does not incur any additional fees despite the addition of claims 28-47, as the claim set currently consists of 22 claims, 2 of which are independent, while the previous claim set consisted of 27 total claims (with 9 independents). Therefore, this response is not believed to

necessitate any additional fees. However, in the event that additional fees are due, please charge or credit any refund to our Deposit Account No. 50-2324.

While the applicants respectfully assert that the subject application is now in condition for allowance, the Examiner is invited to telephone applicants' attorney (@ 617-305-2143) to facilitate / expedite prosecution of this application. Allowance of the subject application is respectfully solicited.

Respectfully Submitted,

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